

TOWN OF HERNDON, VIRGINIA

ORDINANCE

SEPTEMBER 13, 2005

Ordinance- An ordinance amending the Town Code to add new Division 5, Vehicle Solicitation, Article III, Specific Street Regulations, Chapter 42, Motor Vehicles and Traffic, Herndon Town Code (2000), as amended to prohibit employment solicitation using a motor vehicle.

BE IT ORDAINED by the Town Council of the Town of Herndon that:

1. The Herndon Town Code (2000), as amended is amended by adding new Division 5, Vehicle Solicitation, to Article III, Specific Street Regulations, Chapter 42, Motor Vehicles and Traffic, as follows:

DIVISION 5. VEHICLE SOLICITATION

Sec. 42-134. Definitions.

(a) Except as provided in subsection (b) below, words or phrases used in this article shall have the meanings ascribed to them by Code of Virginia §46.2-100, except where the context clearly requires a different meaning in this article.

(b) These terms shall convey these respective meanings.

[insert in alphabetical order]

Alley means a narrow public thoroughfare not exceeding 20 feet in width which provides only a secondary means of access to abutting properties and is not intended for general traffic circulation.

Business means and includes the exchange of any type of product, goods, or service; or any performance or activity which is provided or performed in exchange for money, labor, goods, or any other form of consideration.

Curb means an edging built in or along a roadway to form part of a gutter.

Driveway means a private road connecting one or more parking areas, buildings, or structures with a street or alley.

Employment means service, industry, or labor performed by a person for wages or other compensation or under any contract of hire written or oral, express or implied.

Highway means the entire width between the boundary lines of every way or place open to the use of the public for purposes of vehicular or pedestrian travel in the Commonwealth, including sidewalks, streets, and alleys.

Pedestrian means any individual who is utilizing a highway, sidewalk, driveway, parking area, or alley, while traveling or stopping without the use of a vehicle.

Person means any individual, company, corporation, partnership, unincorporated association, business, or other legal entity.

Parking area means privately or publicly owned property which is designed or used primarily for the parking of vehicles and which adjoins one or more commercial establishments or residential buildings; and includes but is not limited to parking spaces, driveways, setbacks, and landscaped areas.

Sidewalk means that portion of the highway, other than the roadway, set apart by curbs, barriers, markings or other delineation and which is used principally for pedestrian travel.

Solicitation means or includes the act of requesting or announcing by any means the availability for or of employment; or any action which seeks to offer, contract for, purchase, sell, or procure employment. The following acts, among others, may indicate a solicitation when accomplished in the context of securing employment at a location frequented for employment: approach between or among individuals; departing the place of approach together; utilization of a vehicle in the approach or departure. A solicitation is complete when made, whether or not an employment relationship is created. Solicitation does not include any lawful activity conducted at a temporary assembly site for day workers, approved by conditional use permit under the town's zoning ordinance.

Traveling means to go, move, or be upon any highway, sidewalk, driveway, parking area, or alley.

Vehicle means every device in, on or by which any person or property is or may be transported or drawn on a highway, except devices moved by human power or used exclusively on stationary rails or tracks. For the purposes of this article bicycles, electric personal assistive mobility devices, electric power assisted bicycles, and mopeds shall be vehicles while operated on a highway.

Sec. 42-135. Findings.

The town council makes the following findings:

(a) The activity of unregulated pedestrians' soliciting employment from occupants of vehicles distracts drivers from their primary duty to watch traffic and be alert for potential hazards in the highway, to observe all traffic control signs and to be prepared to move through the town with safety.

(b) The activity of unregulated soliciting employment by occupants of vehicles to pedestrians on highways, sidewalks, driveways, parking areas, or alleys distracts drivers from their primary duty to watch other vehicles or pedestrians and to move through the town with safety.

(c) The practice of unregulated soliciting employment from within a highway, sidewalk, driveway, parking area, or alley constitutes a visual blight, inconvenience to workers, and a public nuisance; and subjects the solicitor, pedestrians and vehicle driver to an unacceptable level of danger by distracting drivers from their primary duty to watch traffic; results in the delay and obstruction of

the public's free flow of travel, and results in congestion and blockage of the streets, parking area, driveways, and sidewalks.

(d) Distracted drivers are more prone to be involved in automobile accidents; and vehicular accidents constitute a substantial public safety problem.

(e) The cumulative impact of this type of unregulated solicitation on the highways, sidewalks, driveways, parking areas, or alleys on a daily basis creates a safety hazard and a significant and substantial risk to the interest of the public in the free flow of travel.

Sec. 42-136. Vehicle Solicitation.

(a) It is unlawful for any person, while occupying as a pedestrian any portion of a highway, sidewalk, driveway, parking area, or alley to solicit or attempt to solicit employment from any pedestrian who temporarily exits a vehicle or person traveling in a vehicle on a highway, sidewalk, driveway, parking area, or alley.

(b) It is unlawful for any person occupying or traveling in any vehicle, or who temporarily exits a vehicle to solicit, or attempt to solicit, employment from a person who is pedestrian on a highway, sidewalk, driveway, parking area, or alley.

Sec. 42-137. Penalty.

Any person violating the provisions of this article shall be guilty of a class 2 misdemeanor, punishable as set forth in Section 1-14 of this code. Any such person shall be deemed guilty of a separate offense for each act of solicitation which is a violation of this article.

2. This ordinance shall be effective on and after the date of its adoption for offenses committed on and after that date.

3. The provisions of this ordinance are severable. If any part is declared legally unenforceable, the other parts shall remain in effect.